



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



Notch View Country Inn & RV Resort
Attn: Barry and Diane Graham
P.O. Box 114
Colebrook, NH 03576

Re: Reed Road, Colebrook
Wetlands Bureau File 2003-947

ADMINISTRATIVE ORDER
No. WD 04-010

April 9, 2004

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division to Notch View Country Inn & RV Resort pursuant to RSA 482-A:6. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division, ("DES") is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. Notch View Country Inn & RV Resort ("Notch View") is a campground owned by Diane and Barry Graham, having a mailing address of P.O. Box 114, Colebrook, NH 03576.

C. STATEMENTS OF FACTS AND LAW

1. RSA 482-A authorizes DES to regulate dredging, filling, and construction in or on any bank, flat, marsh, wetland, or swamp in and adjacent to any waters of the state. Pursuant to RSA 482-A:11, I, the Commissioner of DES has adopted NH Code of Admin. Rules Wt 100 *et seq.* to implement this program.
2. RSA 482-A:3, I states that "no person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without permit from [DES]."
3. Dennis and Michelle Hyde are the owners of property located at Reed Road in Colebrook, NH, more specifically identified on Town of Colebrook Tax Map R4 as Lot 8 ("the Property").
4. Notch View is located on L. Forbes Hill Road, Colebrook, NH, more specifically referenced on Town of Colebrook Tax Map R-10 as Lot 93.
5. Notch View has deeded rights to access the Property to repair and maintain a water line which serves the campground.

6. On May 5, 2003, Dennis Hyde telephoned DES to state that a brook feeding into a pond on the Property was running brown because of on-going excavation work being performed upslope of the pond by Notch View.
7. On May 5, 2003, DES contacted personnel from the Lancaster office of the Department of Resources and Economic Development, Division of Forest and Lands ("DRED"), to inquire if they were available to immediately respond to the complaint.
8. On May 5, 2003, personnel from DRED walked the Property and requested that Notch View representatives employ erosion controls on the Property to protect the water quality of the pond.
9. On May 14, 2003, DES personnel conducted an inspection of the Property and found the following:
 - a. A man-made pond measuring approximately 10,000 square feet was located at the base of a slope. At the time of the inspection, the bottom of the pond was visible near the shoreline;
 - b. A layer of silt approximately ¼" in thickness was observed on rocks near the edge of the shoreline and on a submerged swim ladder;
 - c. A small brook, measuring approximately 1' 2' wide, fed into the pond and was running clear at the time of the inspection;
 - d. Silt fence and hay bales were observed in several areas on the Property;
 - e. Approximately 7,500 square feet of wetlands had been impacted by excavation activities. The area of disturbance measured approximately 15' wide by 500' long upslope of the pond in a spruce-fir wetland.
10. A review of DES records show that no permit was issued under RSA 482-A:3 to Notch View Campground, Barry and Diane Graham, or Dennis and Michelle Hyde for the work observed on the Property.
11. On May 14, 2003, DES personnel spoke with Diane Graham of Notch View and determined the following:
 - a. Notch View was in the process of replacing approximately 5300 feet of water line for supplying drinking water to the campground. A portion of this water line runs through the Property.
 - b. Excavation on the Property began on or about May 1, 2003. On May 2nd, the area received a heavy rainfall. Despite the heavy rain, the excavation continued on May 3rd, and was suspended on May 4th due to the rain. Because the new water line was being buried to a depth of four feet, an excavator was used for the project.
 - c. According to Ms. Graham, erosion controls had not been installed prior to excavation. A permit application had not been submitted to DES because they did not know that they were working in wetlands.

12. On July 14, 2003, DES issued Letter of Deficiency WET 2003-12 ("LOD") to Notch View. The LOD requested that Notch View perform the following:

- a. By August 15, 2003, submit an after-the-fact dredge and fill application for the impacts to the approximately 7500 square feet of wetlands caused as a result of the water line installation; and
- b. Include with the application a proposal for restoration activities (*i.e.*, maintenance dredge) to restore the Hyde pond and a construction sequence for the pond restoration.

13. The LOD was received by Diane Graham on July 17, 2003, as evidenced by the signed postal receipt.

14. On October 14, 2003, DES received the dredge-and-fill application as requested in the LOD. The application failed to provide a proposal for the pond restoration and construction sequence.

15. By letter dated December 22, 2003, DES requested from Notch View a written proposal for the pond restoration and construction sequence.

16. To date, DES has no record of the requested written response relative to the restoration activities requested in the LOD and follow-up letter dated December 22, 2003.

D. DETERMINATION OF VIOLATIONS

1. Notch View has violated RSA 482-A:3, I by causing sedimentation into the Hyde pond from construction activities without employing adequate erosion controls.
2. Notch View has violated RSA 482-A:3, I by dredging and filling approximately 7,500 square feet of wetlands without a permit.

E. ORDER

Based on the above findings, DES hereby orders Notch View as follows:

1. **By May 30, 2004**, submit a plan to restore the Hyde pond to previous depth prior to the sedimentation caused by the May 2003 construction activity. The plan shall include:
 - a. Proposed means of erosion control;
 - b. A construction sequence, including equipment and methods for completion of the restoration; and
 - c. A monitoring schedule, including one restoration progress assessment report prepared by a qualified environmental scientist to be filed with the DES Wetlands Bureau.
2. **Within 30 days** of receiving written approval from DES, implement the plan as conditioned by DES.

3. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Linda Magoon, Compliance Specialist
DES Water Division, Wetlands Bureau
6 Hazen Drive – P.O. Box 95
Concord, NH 03301
Fax: (603) 271-6588
e-mail: lmagoon@des.state.nh.us

F. APPEAL

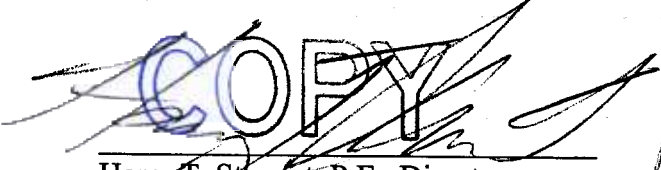
Any person aggrieved by this Order may request DES to reconsider the Order within 20 days of the date of the Order. The request for reconsideration must describe in detail each ground for the request. DES may grant a rehearing, if in its opinion, good cause is provided in the motion.

Filing an appeal or motion for reconsideration does not relieve Notch View of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 482-A:13 and RSA 482-A:14 provide for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Notch View remains obligated to comply with all applicable requirements.

This Order is being recorded in the Coos County Registry of Deeds so as to run with the land.



Harry T. Stewart, P.E., Director
Water Division



Michael P. Nolin, Commissioner
Department of Environmental Services

Certified Mail/RRR: 7002 3150 0001 5411 2330

cc: Gretchen Rule, DES Legal Unit ✓
Public Information Officer, DES PIP Office
Jennifer Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Rene Pelletier, DES Land Resource Management Program
Mary Ann Tilton, DES Wetlands Bureau
Town of Colebrook Conservation Commission
Coos County Registry of Deeds